

## **Assembly Bill No. 2602**

### **CHAPTER 107**

An act to amend Section 854.1 of, and to add Section 854.2 to, the Financial Code, relating to real estate brokers.

[Approved by Governor July 21, 2006. Filed with  
Secretary of State July 21, 2006.]

#### **LEGISLATIVE COUNSEL'S DIGEST**

AB 2602, Lieu. Real estate brokers: deposits.

Under existing law, a real estate broker, who accepts funds belonging to others, is required to deposit those funds into a specified trust fund account. However, existing law also provides that benefits accruing from the placement in a noninterest bearing account of a commercial bank of funds received by a real estate broker who collects payments or provides services in connection with certain loans shall inure to the broker, unless otherwise agreed by the broker and lender.

This bill would instead provide that those benefits shall inure to the real estate broker if they are derived from the placement of those funds in a noninterest bearing account of a financial institution, as defined. The bill would also provide that benefits accruing from the placement in an interest bearing account of a financial institution of funds received by a real estate broker who collects payments or provides services for an institutional investor in connection with a loan secured by commercial real property may inure to the broker, if agreed to in writing by the broker and investor.

*The people of the State of California do enact as follows:*

SECTION 1. Section 854.1 of the Financial Code is amended to read:

854.1. Notwithstanding Section 10145 of the Business and Professions Code or any other provision of law, but subject to the limitations of Section 854, benefits accruing from the placement in a noninterest bearing account of a financial institution of funds received by a real estate broker who collects payments or provides services in connection with a loan secured by a lien on real property under subdivision (d) of Section 10131 or Section 10131.1 of the Business and Professions Code shall inure to the broker, unless otherwise agreed in writing by the broker and the lender or note owner on the loan. A borrower shall receive at least 2 percent simple interest per annum on impound account payments covered by Section 2954.8 of the Civil Code. For purposes of this section "financial institution" means any institution the business of which is engaging in

financial activities as described in Section 1843 (k) of Title 12 of the United States Code.

SEC. 2. Section 854.2 is added to the Financial Code, to read:

854.2. (a) Notwithstanding Section 10145 of the Business and Professions Code or any other provision of law, benefits accruing from the placement in an interest bearing account of a financial institution of funds received by a real estate broker, as defined in Section 10131 of the Business and Professions Code, who collects payments or provides services for an institutional investor in connection with a loan secured by commercial real property may inure to the real estate broker, if agreed to in writing by the real estate broker and that institutional investor as to that loan.

(b) For purposes of this section, the following definitions shall apply:

(1) “Commercial real property” means real estate improved with other than a one-to-four family residence.

(2) “Financial institution” means any institution the business of which is engaging in financial activities as described in Section 1843(k) of Title 12 of the United States Code.

(3) “Institutional investor” has the meaning set forth in subdivision (i) of Section 50003.